

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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BRIAN N. DRAKE,

Petitioner,

v.

UBS FINANCIAL SERVICES INC.,

Respondent.

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U.S. DISTRICT COURT  
DISTRICT OF MASS.  
The Honorable Robert E. Keeton

Case No. 04-11426 REK

**STIPULATION AND REQUEST FOR ORDER**

Petitioner Brian N. Drake ("Drake") and Respondent UBS Financial Services Inc. ("UBS"), for their Stipulation and Request for Order, reached after conferring pursuant to L.R. 7.1, state as follows:

1. On May 20, 2004, Drake filed his Complaint and Application to Vacate ("Complaint") captioned "Brian N. Drake v. UBS Financial Services Inc.," Civil Case No. 04-00290 in the Barnstable County Superior Court, Massachusetts.

2. On June 10, 2004, William Jacobson, Drake's counsel, agreed to extend the time for UBS to answer or otherwise plead to the Complaint.

3. On June 22, 2004, UBS removed Drake's action to this Court.

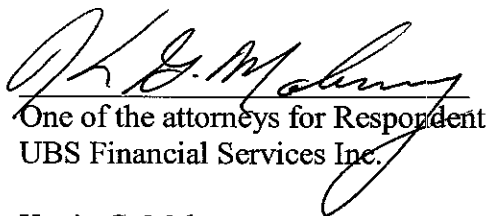
4. UBS intended to file a motion to dismiss Drake's Complaint and Application (Motion) to Vacate pursuant to Rule 12(b)(6) of the Fed.R.Civ.P. for failure to state a claim upon which relief may be granted.

5. Pursuant to L.R. 7.1, prior to filing such motion, counsel for UBS conferred with Drake's counsel and the parties agreed as follows: (1) Drake may file an Amended Complaint and Application (Motion) to Vacate on or before July 30, 2004, while reserving all rights as to the sufficiency of the Complaint and Application (Motion) to Vacate; and (2) UBS is excused

from answering or otherwise pleading in response to the Complaint and Application (Motion) to Vacate, while reserving all rights, defenses, affirmative defenses and counter-claims thereto.

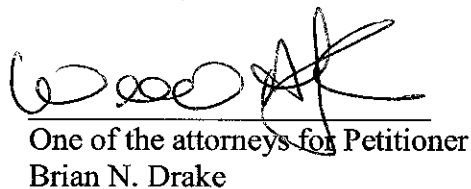
WHEREFORE, Petitioner Brian N. Drake and Respondent UBS Financial Services Inc. respectfully request that the Court enter an Order accepting this Stipulation and ordering that (1) Drake may file an Amended Complaint and Application (Motion) to Vacate on or before July 30, 2004, while reserving all rights as to the sufficiency of the Complaint and Application (Motion) to Vacate; and (2) UBS is excused from answering or otherwise pleading in response to the Complaint and Application (Motion) to Vacate, while reserving all rights, defenses, affirmative defenses and counter-claims thereto.

Respectfully submitted:



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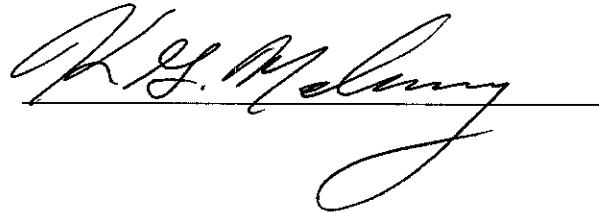
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**Certificate Of Service**

The undersigned hereby certifies that on June 28, 2004, he caused a copy of the foregoing Stipulation and Request for Order to be served upon:

William A. Jacobson  
Shanna L. Pitts  
Law Offices of William A. Jacobson, Inc.  
850 Turks Head Building  
Providence, Rhode Island 02903

by facsimile and placing true copies of same in a properly addressed, postage prepaid envelope and causing that envelope to be deposited in the United States Mail at 60 State St., Boston, Massachusetts.

A handwritten signature in cursive script, appearing to read "R. G. Melny", is written over a horizontal line.

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